

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:08CV490-RJC-DSC**

**DONALD F. BREEGER, et al.,**                     )  
                    **Plaintiffs,**                     )  
   )  
                    **vs.**                             )  
   )  
**US AIRLINE PILOTS**                             )  
**ASSOCIATION,**                                 )  
                    **Defendant.**                     )  
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**MEMORANDUM AND ORDER**

**THIS MATTER** is before the Court on the Defendant’s Motion to Dismiss and Memorandum in Support (Doc. Nos. 15 and 16), the Plaintiff’s Response (Doc. No. 18), the Defendant’s Reply (Doc. No. 21), and the Magistrate Judge’s Memorandum and Recommendation (“M&R”) (Doc. No. 23), which recommended that the motion be granted. The parties were advised to file objections in writing within ten (10) days after service of the Magistrate Judge’s decision. (Doc. No. 23: M & R at 7-8). Plaintiff filed a Waiver of Right to Appeal the M&R (Doc. No. 24) and the time for objections has run. For the reasons stated below, the Court GRANTS the Defendant’s Motion to Dismiss.

**I. STANDARD OF REVIEW**

The Federal Magistrate Act provides that a district court “shall make a de novo determination of those portions of the report or specific proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C); Camby v. Davis, 718 F.2d 198, 198 (4th Cir. 1983). “By contrast, in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in

order to accept the recommendation.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

## II. CONCLUSION

Accordingly, after a careful review of the record in this case, the Court finds that the Magistrate Judge’s findings of fact are supported by the record and his conclusions of law are consistent with and supported by current case law. See Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982) (holding that only a careful review is required in considering a memorandum and recommendation absent specific objections). Thus, the Court hereby accepts the M&R of Magistrate Judge Cayer and adopts it as the final decision of this Court for all purposes relating to this case.

**IT IS, THEREFORE, ORDERED** that the Defendant’s Motion to Dismiss (Doc. No. 15) is **GRANTED** and the Complaint is **DISMISSED WITHOUT PREJUDICE**.

Signed: May 12, 2009



Robert J. Conrad, Jr.  
Chief United States District Judge

